

3/14/1048/FO – Variation of Condition 2 (approved plans of planning permission 3/13/1000/FP) with amended layout to allow for a sewer easement to be provided. House types AB, AC, AE and J to have ridge heights reduced at Land North of, Hare Street Road, Buntingford, Herts for Taylor Wimpey (UK) Ltd

Date of Receipt: 11.06.2014

Type: Variation of Condition – Major

Parish: BUNTINGFORD

Ward: BUNTINGFORD

RECOMMENDATION:

That, subject to the applicant or successor in title entering into a Deed of Variation pursuant to Section 106 of the Town and Country Planning Act 1990, to make reference to this amended application, the Director of Neighbourhood Services be authorised to **GRANT** planning permission subject to the following conditions:

1. The development hereby permitted shall begin no later than two years from 24 January 2014.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: (2E10 – 57/PL01, 13808/2/5000 rev C2, AA/01-A, AA/02-A, A/01-00, A/02-A, A/03-00, AB/01-00, AB/02-B, AB/03-A, AC/01-A, AC/02-C, AC/03-B, AD/01-00, AD/02-B, AD/03-A, AE/01-A, AE/02-C, AE/03-B, AF/01-A, AF/02-B, B/01-00, B/02-A, B/03-00, C/01-00, C/02-A, C/03-00, D/01-A, D/02-B, D/03-00, D/04-00, E/01-00, E/02-A, E/03-00, F/01-00, F/02-A, F/03-00, G/01-A, G/02-B, G/03-B, G/04-00, J/01-00, J/02-B, J/03-B, J/04-0A, K/01-A, K/02-B, K/03-B, K/04-00, K/05-00, K/06-00, K/07-00, L/01-A, L/02-B, L/03-B, L/04-A, L/04.1 A, L/05-A, L/05.1 A, M/01-00, M/02-A, M/03-00, N/01-00, N/02-A, N/03-00, N/04-00, P/01-A, P/02-A, P/03-00, P/04-00, R/01-00, R/02-00, R/03-00, 12.013/100, 3882-1 Rev A, E2028/5/A, E2028/6, TWWL18027-01, TWNT18550-03, TWNT18550 30, TWNT 18550 A, TWNT18550 31 A, Figure 3, Figure 4, Figure 5, Figure 6, Figure 7, Figure 8, Figure 9, Figure 10, Figure 11, Figure 12).

Reason: To ensure the development is carried out in accordance with the approved plans, drawings and specifications.

3. In the event that a cemetery is not transferred to the Town Council in accordance with Schedule 8 of the Deed made under Section 106 of

the Town and Country Planning Act 1990 and dated 20 December 2013, a scheme for the re-siting of the allotments, including suitable access, boundary landscaping and the control of incidental structures, shall be submitted as a revised application for the approval of the Local Planning Authority. Thereafter all land not required for use as a cemetery, allotments or landscaping incidental to the development shall be retained in agricultural use.

Reason: To ensure a high quality layout and to preserve the landscape character of the surrounding area in accordance with policies ENV1 and GBC14 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

4. No development or groundworks shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation, which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To secure the protection of and proper provision for any archaeological remains in accordance with policies BH2 and BH3 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

5. No construction shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved materials.

Reason: In the interests of the appearance of the development, and in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

6. All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage as a result of works on the site, to the satisfaction of the Local Planning Authority and in accordance with BS5837: 2012 Trees in relation to Design, Demolition and Construction, for the duration of the works on the site. In the event that trees or hedging become damaged or otherwise defective during such period or within five years following contractual practical completion of the approved development, the Local Planning Authority shall be notified as soon as is reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of

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the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season following its death or removal, with trees of such size, species and in such number and positions as may be agreed with the Local Planning Authority.

Reason: To ensure the continuity of amenity afforded by existing trees and hedges, in accordance with policies ENV2 and ENV11 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

7. No construction shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs, lighting etc).

Reason: To ensure the provision of amenity afforded by appropriate landscape design, in accordance with policies ENV1, ENV2 and ENV11 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

8. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.

Reason: To ensure the provision of amenity afforded by appropriate landscape design, in accordance with policies ENV1, ENV2 and ENV11 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

9. No construction shall take place until a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include details of the arrangements for its implementation. Maintenance shall be carried out in accordance with the approved schedule.

Reason: To ensure the provision of amenity afforded by the proper maintenance of existing and/or new landscape features, in accordance

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with policy ENV2 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

10. No construction shall take place until a scheme for the replacement, reinforcement and where appropriate the extension of screen planting on the eastern boundary of the residential development hereby approved has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the replacement of the existing coniferous trees with other evergreen species, the timings of its initial implementation and the management and maintenance arrangements that are to be implemented whilst ever the residential development hereby permitted remains.

Reason: To ensure the provision of amenity afforded by the proper maintenance of existing and/or new landscape features, in accordance with policy ENV2 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

11. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the Local Planning Authority.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscaping in accordance with the approved designs, in accordance with policies ENV1 and ENV2 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

12. Site preparation and construction works shall not take place outside 07:30 hours to 18:30 hours Mondays to Fridays and 07:30 hours to 13:00 hours on Saturdays nor at any time on Sundays or Bank Holidays.

Reason: To safeguard the amenity of residents of nearby properties, in accordance with policies ENV1 and ENV24 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

13. Prior to the commencement of construction, a detailed surface water drainage scheme shall be submitted to and agreed in writing by the Local Planning Authority and the approved scheme shall be implemented prior to first occupation of the development. The scheme shall be based on the submitted Flood Risk Assessment (FRA) E2028-FRA Report Rev 0- JUN13 dated June 2013 and shall include a

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restriction in run-off rate to 26.8 litres/second and surface water storage as outlined in the FRA.

Reason: In the interests of the management of surface water flows and in accordance with policy ENV21 of the East Herts Local Plan Second Review April 2007 and section 10 of the National Planning Policy Framework.

14. The development hereby permitted shall not begin until a scheme to deal with any contamination of land and/or groundwater has been submitted to and approved in writing by the Local Planning Authority and until the measures approved in that scheme have been fully implemented. The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement specifically in writing:
- i) A site investigation, based on the details contained in the Submitted Phase 1 Preliminary Contamination Assessment Report (DMB/723774/R1) shall be carried out to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site;
 - ii) An options appraisal and remediation strategy, giving full details of the remediation measures required and how they are to be undertaken, based on the results of the site investigation and detailed risk assessment referred to in (i) above;
 - iii) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (ii) above are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Reason: To minimise and prevent pollution of the land and the water environment and in accordance with section 11 of the National Planning Policy Framework.

15. The development hereby permitted shall not be occupied until a verification report, demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation, has been submitted to and approved in writing by the Local Planning Authority. The report shall include the results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a plan (a 'long term monitoring and maintenance plan') for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification

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plan. The long-term monitoring and maintenance plans shall be implemented as approved.

Reason: To minimise and prevent pollution of the land and the water environment and in accordance with section 11 of the National Planning Policy Framework.

16. The recommendations to retain and enhance the biodiversity of the site, highlighted in Sections 6.0 and 7.0 of the Ecological Assessment (ACD) reference TWNT 18027 Rev A, dated August 2012, shall be implemented as approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of protected species in accordance with policy ENV16 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

17. No dwelling shall be occupied unless and until the access, junction, road and parking arrangements serving that dwelling have been completed in accordance with the approved drawings and constructed to the Highway Authority's specification.

Reason: In the interests of highway safety, and in accordance with policies TR2 and TR7 of the East Herts Local Plan Second Review April 2007 the National Planning Policy Framework.

18. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i) the programme and phasing of works on site
- ii) the parking of vehicles of site operatives and visitors
- iii) loading and unloading of plant and materials
- iv) storage of plant and materials used in constructing the development
- iv) the erection and maintenance of security hoarding, including decorative displays and facilities for public viewing, where appropriate
- v) wheel washing facilities
- vi) measures to control the emission of dust and dirt during construction
- vii) a scheme for recycling/disposing of waste resulting from demolition and construction works

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- ix) construction vehicle routing and access
- x) the protection of pedestrians using the public footpath that crosses the site.

Reason: In the interests of highway safety, and in accordance with policies TR2 and TR7 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

19. A Green Travel Plan, with the object of reducing travel to and from the development by private car, shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any dwelling and the proposed measures shall be implemented to an agreed timetable.

Reason: To promote the use of non-car modes of transport in accordance with national guidance in section 4 of the National Planning Policy Framework and policy TR4 of East Herts Local Plan Second Review April 2007.

20. Details of the proposed new public right of way and the improvements and alterations to existing routes shall be submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing, the approved works shall be completed and made available for use by the public prior to the first occupation of any dwelling on the development hereby permitted.

Reason: To protect and enhance public rights of way network in accordance with policy LRC9 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

21. All bathroom windows shall be fitted with obscured glass and shall be permanently maintained in that condition.

Reason: To safeguard the privacy of occupiers in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

22. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development Order) 1995 the erection or construction of gates, fences, walls or other means of enclosure as described in Schedule 2, Part 2, Class A of the Order shall not be undertaken along the eastern boundary of 11 Hare Street Road without the prior written consent of the Local Planning Authority.

Reason: To safeguard the privacy of occupiers in accordance with

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policy ENV1 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

Directives:

1. Other Legislation (01OL1).
2. Highway Works (05FC).
3. Planning Obligation (08PO).
4. Street Naming and Numbering (19SN)
5. Groundwater protection zone (28GP – insert 'Hare Street').
6. Unsuspected contamination (33UC).
7. Protected Species (36PS).
8. The applicant is advised that this consent gives no authority to cross Registered Common Land and a separate application under Section 38 of the Commons Act 2006 must be made to the Secretary of State for this purpose.

Summary of Reasons for Decision

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan (Minerals Local Plan, Waste Core Strategy and Development Management Policies DPD 2012 and the 'saved' policies of the East Herts Local Plan Second Review April 2007) the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2012 (as amended). The balance of the considerations having regard to those policies and permission 3/13/1000/FP is that permission should be granted.

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1.0 Background

- 1.1 The application site is shown on the attached OS extract. It comprises 8.6 hectares of agricultural land, including two fields divided by a tree belt. The site is located to the east of Buntingford, and within the Rural Area Beyond the Green Belt. The site is bordered by Hare Street Road to the south, The Causeway and Layston First School to the north,

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agricultural fields to the east, and the existing residential developments of Paddock Road, Archers, and Sunny Hill to the west.

- 1.2 Planning permission has been granted at appeal (reference 3/13/1000/FP) for a development of 160 dwellings, with associated garages, car parking, public open space, children's play area, landscaping, diversion of footpath, pumping station, new vehicular, pedestrian and cyclist accesses and the provision of allotments and a cemetery. This application seeks an amendment to the approved plans condition to allow for an amended layout on the western side of the site to provide for a sewer easement. The application also proposes a reduction in the ridge heights of house types AB, AC, AE and J.

2.0 Site History

- 2.1 Members will recall that planning permission was allowed on appeal for 160 dwellings and associated works on this site under reference 3/13/1000/FP, following a public inquiry held in December 2013. This approval was subject to a number of conditions and a signed Section 106 legal agreement.

3.0 Consultation Responses

- 3.1 The Council's Landscape Officer comments that the proposal is non-contentious in landscape terms.
- 3.2 Environmental Health do not wish to restrict the grant of permission.
- 3.3 The Environment Agency have no comments to make.
- 3.4 Thames Water raise no objection. They comment that the 'sewer' is classed as a private culverted watercourse and is not under the ownership of Thames Water. Water supply in the area is covered by Affinity Water.

4.0 Town/Parish Council Representations

- 4.1 Buntingford Town Council welcome the reduction in ridge heights but raise the following concerns:
 - there are some changes to the house types which are not mentioned in the application;
 - the red line includes an area of Common Land which is not within the ownership of the developer and there are no legal provisions to facilitate development of this land;

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- the plans still show an access road to the allotments and cemetery but these are to be moved as the cemetery is no longer required, and access to the allotments is now expected to be from The Causeway as per the Planning Inspector's report;
- All conditions must be adhered to and the details of the proposal scrutinised.

5.0 Other Representations

- 5.1 The application has been advertised by way of press notice, site notice and neighbour notification.
- 5.2 1 letter of representation has been received raising concerns that the amendments will not address overriding concerns with regard to employment, transport, and impact on local services and infrastructure.

6.0 Policy

- 6.1 The relevant saved Local Plan policies in this application include the following:

SD1	Making Development More Sustainable
SD2	Settlement Hierarchy
HSG1	Assessment of Sites not Allocated in this Plan
HSG3	Affordable Housing
HSG4	Affordable Housing Criteria
HSG6	Lifetime Homes
GBC3	Appropriate Development in the Rural Area beyond the Green Belt
GBC14	Landscape Character
TR1	Traffic Reduction in New Developments
TR2	Access to New Developments
TR3	Transport Assessments
TR4	Travel Plans
TR7	Car Parking – Standards
TR12	Cycle Routes – New Developments
TR14	Cycling – Facilities Provision (Residential)
TR17	Traffic Calming
TR20	Development Generating Traffic on Rural Roads
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV3	Planning Out Crime – New Development
ENV11	Protection of Existing Hedgerows and Trees
ENV16	Protected Species
ENV20	Groundwater Protection

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ENV21	Surface Water Drainage
BH1	Archaeology and New Development
BH2	Archaeological Evaluations and Assessments
BH3	Archaeological Conditions and Agreements
LRC1	Sport and Recreation Facilities
LRC3	Recreational Requirements in New Residential Developments
LRC9	Public Rights of Way
IMP1	Planning Conditions and Obligations

6.2 The National Planning Policy Framework and National Planning Practice Guidance are also material considerations in determining this application.

7.0 Considerations

7.1 Given that planning permission has already been granted under reference 3/13/1000/FP, the main issue in this case is whether the proposed amendments are acceptable in terms of scale, layout, design, access, and parking. A third party objection has been received raising concerns over employment, transport, and impact on local services and infrastructure; however these issues are not material to the determination of a minor material amendment application.

7.2 It is proposed to amend the layout to the west of the site in order to provide for a sewer easement. This involves repositioning Plots 87 and 88 approximately 2m to the north, repositioning the garage of Plot 88, and consolidating the single garages of Plot 86-87 and 89-90 into double garages. This amended layout then enables a 6m wide sewer easement strip to be provided between Plots 88 and 89. Officers are satisfied that this amendment will cause no harm to the character of the site or surrounding area, nor will it have a harmful impact on neighbour amenity. The landscaping details of this area can be controlled through condition.

7.3 The application also proposes to reduce the ridge heights of the following house types:

- Housetype AB – reduce from 9.5m to 8.2m;
- Housetype AC – reduce from 10m to 8.5m;
- Housetype AE – reduce from 10.3m to 8.7m;

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- Housetype J – reduce from 9m to 8.7m.
- 7.4 This will improve the visual impact of the development in the surrounding landscape and result in a less prominent form of development. Officers are therefore satisfied with this amendment.
- 7.5 Although not in the description, the submitted plans also show a number of other non-material amendments, as follows:
- An additional car parking space has been provided for Plot 159;
 - Parking spaces for Plots 96-97 and 118-119 have been slightly reconfigured;
 - Two extra car parking spaces have been provided for Plots 103-107;
 - The approved double garages for Plots 11 and 12 have been replaced with single garages and tandem parking;
 - Plot 15 garage has been moved back approximately 3m.
- 7.6 Officers consider these amendments to be minor in nature and will not compromise the design of the scheme or its impact in the surrounding area. The amendments do slightly increase the parking provision, and in the case of Plots 103-107, this is at the expense of soft landscaping; however Officers are satisfied that an acceptable landscaping scheme can still be achieved through condition.
- 7.7 Comments received from the Town Council are noted and Members are advised that the Planning Inspector included a condition to require a revised layout to be submitted, excluding the access through the tree belt to the east, and enhancing this tree belt with planting. This access is still shown on the plans and the same condition is therefore recommended to minimise the landscape impact of the scheme.
- 7.8 The Town Council also raise concerns over the house types referred to on the submitted plan. The developer has included new house codes within the site plan, but has provided a table which relates to the previously approved house types. These correlate with the approved scheme and therefore Officers are satisfied that there have been no other changes to the house types proposed. Plots 11, 12, 14, 15, 18 and 22 have already been agreed to be varied by Officers under Condition 3 of the original consent which required revised details to

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secure lower ridge heights.

- 7.9 Finally the Town Council query the red edge of the application site which includes an area of Common Land adjacent to The Causeway. The red edge is identical to the previous scheme allowed at appeal to which the Inspector raised no issue over such procedural matters.

8.0 Conclusion

- 8.1 Overall, Officers are satisfied that the reduced ridge heights result in an improvement to the approved scheme, and the amended layout will cause no harm to the character or appearance of the development or wider area. It is therefore considered that the proposal is acceptable in accordance with national and local planning policy.
- 8.2 Given that this is an application to vary a condition, the granting of approval will result in a fresh permission being granted. It is therefore important to repeat conditions attached to permission 3/13/1000/FP, and for the Section 106 legal agreement to be varied to include this new planning reference. Condition 3 of the allowed appeal is no longer required as this related to reduced ridge heights for Plots 11, 12, 14, 15, 18 and 22 which have already been agreed with Officers, and the plan numbers have been amended in Condition 2 to cover these changes. In terms of timescales, given that the justification for the development was based on a need for housing, and the Inspector felt it necessary to require commencement within two years, Officers recommend that the timescale for commencement should remain as two years from the date of the appeal decision.
- 8.3 The application is therefore recommended for approval subject to the conditions set out above, and a Deed of Variation for the Section 106 legal agreement to make reference to this application.